

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

DEQUEEN AND EASTERN
RAILROAD, LLC.,

Plaintiff,

v.

Case No. 6:22-cv-93-KEW

BRINK ENGINEERING SOLUTIONS, LLC.,

Defendant

BRINK ENGINEERING SOLUTIONS, LLC.,

Third-Party Plaintiff,

v.

NATION CONSTRUCTION, LLC.,

Third-Party Defendant.

**NATION CONSTRUCTION, LLC.'S ANSWER TO THIRD-PARTY PLAINTIFF'S
THIRD-PARTY COMPLAINT**

COMES NOW Third-Party Defendant, Nation Construction, LLC. ("Nation") for its Answer to Third-Party Plaintiff Brink Engineering Solutions, LLC's ("Brink") Third-Party Complaint, alleges and states as follows:

1. In response to the allegations in Paragraph 1 of Third-Party Plaintiff's Third-Party Complaint, Nation is without sufficient information to admit or deny.
2. In response to the allegations in Paragraph 2 of Third-Party Plaintiff's Third-Party Complaint, Nation admits it is an Oklahoma company.

3. In response to the allegations in Paragraph 3 of Third-Party Plaintiff's Third-Party Complaint, Nation does challenge the jurisdiction of this Court. Nation denies any claim for liability or damages.

4. The allegations in Paragraph 4 of Third-Party Plaintiff's Third-Party Complaint are admitted.

5. In response to the allegations in Paragraph 5 of Third-Party Plaintiff's Third-Party Complaint, Nation admits Brink leased certain equipment from it. Nation denies any claim for liability or damages.

6. In response to the allegations in Paragraph 6 of Third-Party Plaintiff's Third-Party Complaint, no assertion is made as to Nation and no response is required.

7. In response to the allegations in Paragraph 7 of Third-Party Plaintiff's Third-Party Complaint, Nation is without sufficient information to admit or deny. Otherwise, the pleadings speak for themselves.

8. In response to the allegations in Paragraph 8 of Third-Party Plaintiff's Third-Party Complaint, Nation is without sufficient information to admit or deny.

9. In response to the allegations in Paragraph 9 of Third-Party Plaintiff's Third-Party Complaint, Nation admits certain equipment was rented from it.

10. The allegations in Paragraph 10 of Third-Party Plaintiff's Third-Party Complaint, are denied.

11. The allegations in Paragraph 11 of Third-Party Plaintiff's Third-Party Complaint, are denied.

12. In response to the allegations in Paragraph 12 of Third-Party Plaintiff's Third-Party Complaint, Nation is without sufficient information to admit or deny. The pleadings speak for themselves.

13. In response to the allegations in Paragraph 13 of Third-Party Plaintiff's Third-Party Complaint, Nation is without sufficient information to admit or deny. The pleadings speak for themselves.

14. The allegations in Paragraph 14 of Third-Party Plaintiff's Third-Party Complaint, are denied.

15. In response to the allegations in Paragraph 15 of Third-Party Plaintiff's Third-Party Complaint, Nation admits certain equipment was rented from it.

16. The allegations in Paragraph 16 of Third-Party Plaintiff's Third-Party Complaint, are denied.

17. The allegations in Paragraph 17 of Third-Party Plaintiff's Third-Party Complaint, are denied.

18. The allegations in Paragraph 18 of Third-Party Plaintiff's Third-Party Complaint, are denied.

19. In response to the allegations in Paragraph 19 of Third-Party Plaintiff's Third-Party Complaint, Nation admits certain equipment was rented from it.

20. The allegations in Paragraph 20 of Third-Party Plaintiff's Third-Party Complaint, are denied.

21. The allegations in Paragraph 21 of Third-Party Plaintiff's Third-Party Complaint, are denied.

22. The allegations in Paragraph 22 of Third-Party Plaintiff's Third-Party Complaint, are denied.

23. The allegations in Paragraph 23 of Third-Party Plaintiff's Third-Party Complaint, are denied.

24. The allegations in Paragraph 24 of Third-Party Plaintiff's Third-Party Complaint, are denied.

25. The allegations in Paragraph 25 of Third-Party Plaintiff's Third-Party Complaint, are denied.

26. In response to the allegations in Paragraph 26 of Third-Party Plaintiff's Third-Party Complaint, Nation objects to this paragraph as it states a legal conclusion. Nation denies breach of any applicable duty or claim for liability.

27. The allegations in Paragraph 27 of Third-Party Plaintiff's Third-Party Complaint, are denied.

28. In response to the allegations in Paragraph 28 of Third-Party Plaintiff's Third-Party Complaint, Nation objects to this paragraph as it states a legal conclusion. Nation denies breach of any applicable duty or claim for liability.

29. The allegations in Paragraph 29 of Third-Party Plaintiff's Third-Party Complaint, are denied.

30. The allegations in Paragraph 30 of Third-Party Plaintiff's Third-Party Complaint, are denied.

31. The allegations in Paragraph 31 of Third-Party Plaintiff's Third-Party Complaint, are denied.

32. The allegations in Paragraph 32 of Third-Party Plaintiff's Third-Party Complaint, are denied.

33. The allegations in Paragraph 33 of Third-Party Plaintiff's Third-Party Complaint, are denied.

34. In response to the allegations in Paragraph 34 of Third-Party Plaintiff's Third-Party Complaint, Nation objects to this paragraph as it states a legal conclusion. Nation denies breach of any applicable duty or claim for liability.

35. In response to the allegations in Paragraph 35 of Third-Party Plaintiff's Third-Party Complaint, Nation objects to this paragraph as it states a legal conclusion. Nation denies breach of any applicable duty or claim for liability.

36. The allegations in Paragraph 36 of Third-Party Plaintiff's Third-Party Complaint, are denied.

37. The allegations in Paragraph 37 of Third-Party Plaintiff's Third-Party Complaint, are denied.

38. The allegations in Paragraph 38 of Third-Party Plaintiff's Third-Party Complaint, are denied.

39. The allegations in Paragraph 39 of Third-Party Plaintiff's Third-Party Complaint, are denied.

40. The allegations in Paragraph 40 of Third-Party Plaintiff's Third-Party Complaint, are denied.

41. The allegations in Paragraph 41 of Third-Party Plaintiff's Third-Party Complaint, are denied.

42. No response to Paragraph 42 of Third-Party Plaintiff's Third-Party Complaint is required.

AFFIRMATIVE DEFENSES

1. Failure to state a claim upon which relief can be granted
2. Statute of Repose
3. Statute of Limitations
4. Contributory/Comparative Negligence
5. Liability of Third Parties over whom Nation has no control
6. All contractual defenses and claims to which Nation may be entitled under common law, Oklahoma statutes, and/or the UCC.
7. Brink Engineering Solutions, LLC.'s claims are barred by the express terms of the contact
8. Failure to mitigate
9. Failure to satisfy a condition precedent
10. Expiration of warranties
11. Failure to provide sufficient notice of breach under 12 O.S sec. 2-607
12. Setoff
13. Intervening, superseding cause
14. Approval, acceptance, or ratification or work
15. Waiver
16. Release
17. Nation reserves the right to amend its Answer and/or add additional affirmative defenses as discovery is ongoing;

WHEREFORE, Nation Construction, LLC., demands Third-Party Plaintiff take nothing by way of its Petition, and respectfully requests the Court grant its attorneys' fees and costs, as permitted under Oklahoma law.

Respectfully submitted,

/s/ Bart Jay Robey
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CERTIFICATE OF SERVICE

I hereby certify that on September 19th, 2022, I electronically filed the foregoing with the Clerk of the United States District Court for the Eastern District Court of Oklahoma, using CM/ECF system which sent notification of such filing to the CM/ECF participants of record (which constitutes all known parties and counsel of record).

/s/ Bart Jay Robey
Bart Jay Robey / Eric A. Moen